



## Legislative Bulletin.....October 30, 2007

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### Summary of the Bills Under Consideration Today

**Total Number of New Government Programs:** 0

**Total Cost of Discretionary Authorizations:** \$0

**Effect on Revenue:** \$0

**Total Change in Mandatory Spending:** \$0

**Total New State & Local Government Mandates:** 2

**Total New Private Sector Mandates:** 0

**Number of Bills Without Committee Reports:** 3

**Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority:** 0

## **H.R. 3678 — Internet Tax Freedom Act Amendments Act of 2007** ***(Conyers, D-MI)***

**Order of Business:** H.R. 3678 is expected to be considered on Tuesday, October 30, 2007, on a motion to suspend the rules and pass the bill.

**Summary:** H.R. 3678 would extend the Internet Tax Freedom Act of 1998, which prohibits the imposition of state and local taxes on Internet access providers, for seven years. The bill would also amend certain provisions dealing with taxes that have been grandfathered in and taxes on telecommunications. The current internet tax moratorium is due to expire tomorrow.

The bill would extend the moratorium on state and local taxation of providers of Internet access through November 1, 2014. H.R. 3678 would also extend a grandfathering clause that allows states that taxed Internet access prior to 1998 to continue to impose such taxes through November 1, 2014.

In addition, the bill would narrow the definition of “Internet access” in order to phase out a loophole in the definition through which some states have legally taxed telecommunications services that were purchased or sold by a provider of Internet access. H.R. 3678 would close the loophole and extend the moratorium on taxation to telecommunications sales or purchases by Internet service providers. The bill would allow states that have made public rulings regarding such taxes to continue to collect them until November 1, 2007.

H.R. 3678 would further amend the definition of “Internet access” to mean a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet. The definition includes the purchase, use, or sale of telecommunications by an Internet service provider as a transaction that is free from taxation.

The new definition would exclude [voice-over-Internet-protocol \(VOIP\)](#) services (like Vonage) from the moratorium, which means VOIP services would now be open for taxation by state and local governments.

Finally, the bill would define “tax on Internet access” to exclude “gross receipts” that apply to large Internet services providers, but are not taxes on Internet access. Therefore, a company may not use the Internet tax prohibition to avoid paying gross receipts taxes.

**Additional Information:** The Internet Tax Freedom Act of 1998 created a three year moratorium on state or local taxation of providers of Internet access and prohibited any multiple or discriminatory taxes on electronic commerce. The original bill grandfathered in certain state and local taxes that were “generally imposed and actually enforced prior to October 1, 1998.” Since its original passage, the legislation has been altered slightly and reauthorized twice — for two years in 2001 and for four years in the Internet Tax Nondiscrimination Act of 2003, which was enacted on December 3, 2004. In 2003, legislation that would have made the moratorium permanent was passed in the House but not acted upon in the Senate.

During committee consideration, Republicans offered three amendments to extend the tax moratorium. The first amendment, to extend the moratorium permanently, was defeated on a party line vote. The second amendment, to extend the program for eight years, initially passed by a vote of 20 – 18. However, a motion to reconsider the vote passed by a party line vote and the subsequent vote on the amendment failed by a vote of 17 ayes to 22 nays, with two of the three Democrats who initially supported the amendment changing their vote. The final amendment, to extend the moratorium for six years, failed on a party line.

Though many prominent businesses and outside groups support making the moratorium permanent, some state and local associations are against it because of the potential revenue that is lost when they are not allowed to tax providers of Internet access. The group “[Don’t Tax our Web](#),” which boasts prominent support from companies such as AT&T, AOL, Ebay, Yahoo, and Sprint, has strongly supported legislation to permanently extend the tax moratoriums in order to “promote broadband deployment and facilitate affordable Internet access for all consumers.”

Currently, there are two pieces of legislation that would extend the moratorium permanently. [H.R. 743](#) (Eshoo, D-CA), which currently has [238 co-sponsors](#), and [S. 156](#) (Wyden, D-OR), which has [23 co-sponsors](#). 21 Members of the Judiciary Committee, which voted 21 – 16 against an amendment to permanently extend the moratorium, are co-sponsors of H.R. 743.

**Committee Action:** H.R. 3678 was introduced September 27, 2007, and referred to the Judiciary Committee. On October 10, 2007, a mark-up was held and the bill was reported by a recorded vote of 38 – 0.

**Administration Position:** A Statement of Administration Policy (SAP) was not available at press time.

**Cost to Taxpayers:** According to CBO, enacting H.R. 3678 would have no impact on the federal budget.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** Yes, H.R. 3678 imposes an intergovernmental mandate on state and local governments. According to CBO, while there is some uncertainty about the number of states affected, CBO estimates that the direct costs to states and local governments would probably total more than \$80 million annually.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The Ways & Means Committee, in [House Report 110 - 372](#), asserts that, “Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Ways and Means Committee has determined that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that rule.”

**Constitutional Authority:** The Ways & Means Committee, in [House Report 110 - 372](#), cites constitutional authority in Article I, Section 8, Clause 3 (the commerce clause).

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## **H.R. 2787— CJ’s Home Protection Act of 2007 (*Ellsworth, D-IN*)**

**Order of Business:** H.R. 2787 is scheduled to be considered under suspension of the rules on Tuesday, October 30, 2007.

**Summary:** H.R. 2787 would require that every newly manufactured home be equipped with a weather radio that is capable of broadcasting emergency information regarding local weather. The Secretary of Housing and Urban Development would be required to develop and carry-out the mandate.

According to CBO, the average cost of each radio, including shipping and storage, would be approximately \$50.

**Additional Background:** According to findings listed in the bill, nearly 20 million low and moderate income families live in manufactured homes nation-wide. The National Oceanic and Atmospheric Administration (NOAA), reports that over 40% of fatalities caused by tornados occur in mobile homes. To protect people from the danger of severe weather, NOAA operates the NOAA Weather Radio (NWR) which continually broadcasts National Weather Service (NWS) updates around the country. H.R. 2787 would mandate that mobile home producers install emergency warning radios in each of the 100,000 mobile homes produced annually to alert residents to extreme weather reports broadcasted over NWR.

**Committee Action:** H.R. 2787 was introduced on June 20, 2007, and referred to the Committee on Financial Services, which held a mark-up on September 18, 2007, and reported the bill, as amended, by voice vote.

**Cost to Taxpayers:** According to CBO “implementing H.R. 2787 would have no significant net effect on spending subject to appropriation in any year.”

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** The bill would extend a preemption of state and local law that prohibits state and local governments from establishing laws with regard to the safety of manufactured homes. According to CBO, the mandate would be “well below” the UMRA threshold.

H.R. 2787 would also impose private-sector mandates by requiring manufacturers of mobile homes to supply every manufactured home with weather radios equipped tone alarms and message alert encoding. According to CBO, there are 100,000 mobile homes produced annually and each radio unit would cost approximately \$50, which would fall below the UMRA threshold for private sector mandates (\$131 million in 2007, adjusted for inflation).

**Constitutional Authority:** A House Report citing constitutional authority not available. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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## **S. 2106— Procedural Fairness for September 11 Victims Act of 2007 (*Sen. Biden, D-DE*)**

**Order of Business:** S. 2106 is scheduled to be considered under suspension of the rules on Tuesday, October 30, 2007.

**Summary:** S. 2106 would authorize the United States District Court for the Southern District of New York to serve a subpoena regarding damages arising out of the hijacking and subsequent crash of multiple commercial planes on September 11, 2001.

The September 11<sup>th</sup> Victims Compensation Fund of 2001 established the US District Court of the Southern District of New York as the exclusive remedy for any grievances resulting from the hijackings on September 11, 2001. However, the Federal Rules of Civil Procedure limit the service of a subpoena to appear in the court any place that is not within 100 miles of the district. S. 2106 would authorize the service of subpoenas anywhere in the nation.

**Additional Background:** According to findings listed in the bill, litigation under the September 11 Victims Compensation Fund of 2001 will likely involve witnesses and documents from all over the nation. The court may only serve a subpoena more than 100 miles outside the district if a U.S. statute specifically provides relief from the Federal Rules of Civil Procedures. Under S. 2106, the court must still provide proper application and cause before a subpoena is served.

**Committee Action:** S. 2106 was passed in the Senate by unanimous consent on October 3, 2007. The following day the bill was received in the House and referred to the Committee on the Judiciary, which took no official action.

**Cost to Taxpayers:** A CBO score for S.2106 is currently unavailable. However, the bill does not authorize any expenditure.

**Does the Bill Expand the Size and Scope of the Federal Government?:** The bill would give the U.S. District Court for the Southern District of New York the statutory right to serve subpoenas with regard to cases the are brought as a result of the attacks of September 11, 2001, anywhere in the U.S.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** A House Report citing constitutional authority not available. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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**S. \_\_\_\_ — To temporarily extend the programs under the Higher Education Act of 1965 (Sen. Kennedy, D-MA)**

**Order of Business:** S. \_\_\_\_ is scheduled to be considered under suspension of the rules on Tuesday, October 30, 2007.

**Summary:** S. \_\_\_\_ would extend the authorization (at current, FY04 levels) for the Higher Education Act of 1965 (HEA) through March 31, 2008 (currently set to expire on October 31, 2007). Current law allows for flexibility in the authorization depending upon amendments to HEA enacted during FY05 or FY06.

The Senate version also includes a technical correction to the College Cost Reduction and Access Act of 2007 (H.R. 2669) regarding non-profit lenders.

**Committee Action:** S. \_\_\_\_ will be introduced on October 30, 2007.

**Cost to Taxpayers:** A CBO score for S. \_\_\_\_ is not available. However, the Committee of Education and Labor reports that the bill has no budgetary effect.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.”

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**H.R. 1236— To make permanent the authority of the United States Postal Service to issue a special postage stamp to support breast cancer research  
(Clay, D-MO)**

**Order of Business:** H.R. 1236 is scheduled to be considered under suspension of the rules on Tuesday, October 30, 2007.

**Summary:** H.R. 1236 would extend the authority of the United States Postal Service (USPS) to issue and sell breast cancer awareness postage stamps (known as semipostals) through December 31, 2011. The bill, which originally would have extended authority permanently, was amended in committee to grant a four year reauthorization.

H.R. 1236 would also require the GAO to submit an annual report regarding the amount of money raised through the stamps and any significant advances or accomplishments that were funded with the funds.

**Additional Information:** The Stamp Out Breast Cancer Act, which became law in 1997, was created to increase awareness about breast cancer and raise money to combat the disease. The Act allowed the USPS to create a breast cancer awareness semipostal stamp and sell it 14 cents above the normal price of a first class stamp. Today the stamps sell for 55 cents, with the extra money, minus a small percentage used for increased administrative costs, going to breast cancer research conducted by the National Institute of Health and the Department of Defense. According to [House Report 110 – 409](#), the program has raised \$53.4 million for breast cancer research since it began.

**Committee Action:** H.R. 1236 was introduced on February 28, 2007, and referred to the Energy and Commerce Committee. On March 1, 2007, the bill was referred to the Subcommittee on Health, which held a mark-up and reported the bill to the full committee on October 10, 2007.

**Cost to Taxpayers:** According to CBO, H.R. 1236 would decrease direct spending from FY 2008 through FY 2014 by \$5 million. However, CBO estimates that any savings would be offset by increases in years to come, leading to no net budgetary impact over the FY 2008 – FY 2017 period.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** [House Report 110 – 409](#) cites constitutional authority in Article 1, Section 8, clause 3 (which grants Congress the power to regulate commerce among the several States) and clause 1 (the general welfare clause).

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**H.Res. 759 — Recognizing the 40th Anniversary of the Mass Movement for Soviet Jewish Freedom and the 20th Anniversary of the Freedom Sunday Rally for Soviet Jewry on the Mall in Washington, D.C. (Waxman, D-CA)**

**Order of Business:** H.Res. 759 is scheduled to be considered on Tuesday, October 30, 2007, under a motion to suspend the rules and pass the resolution.

**Summary:** H.Res. 759 would express the sense that the House of Representatives “recognizes the 20th anniversary of the Freedom Sunday Rally for Soviet Jews in Washington, DC, which embodies the American principle of citizen activism for the greater good.”

The resolution lists a number of findings, including:

- “in 1964, the Student Struggle for Soviet Jewry was founded to demand freedom for Soviet Jewry;
- “in 1964, thousands of college students rallied on behalf of Soviet Jewry in front of the United Nations;
- “Israel’s victory in the 1967 Six-Day War inspired Soviet Jews to intensify their efforts to win the right to emigrate;
- “in 1971, the severe sentences, including death, meted out to nine Leningrad Jews who attempted to hijack a plane to flee the Soviet Union spurred worldwide protests;
- “in 1971, the National Conference on Soviet Jewry (NCSJ) succeeded the AJCSJ;
- “in 1971, mass emigration of Jews from the Soviet Union began;
- “in 1987, an estimated 250,000 people demonstrated on the Mall in Washington before the start of the Reagan-Gorbachev summit, in an unprecedented rally that helped give the issue added visibility on the national scene;
- “since 2000, more than 400 independent Jewish cultural organizations and 30 Jewish day schools have been established in the former Soviet Union, giving rise to a renewal of Jewish life; and
- “it is the 40th anniversary of the mass movement for freedom by and on behalf of Soviet Jewry.”

**Committee Action:** H.Res. 759 was introduced on October 18, 2007, and referred to the Committee on Oversight and Government Reform, which held a mark-up and reported the bill on October 23, 2007.

**Cost to Taxpayers:** The resolution authorizes no expenditure.

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

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**H.R. 3307 — To designate the facility of the United States Postal Service located at 570 Broadway in Bayonne, New Jersey, as the “Dennis P. Collins Post Office Building” (Sires, D-NJ)**

**Order of Business:** H.R. 3307 is scheduled for consideration on Tuesday, October 30, 2007, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 3307 would designate the facility of the United States Postal Service located at 570 Broadway in Bayonne, New Jersey, as the “Dennis P. Collins Post Office Building.”

**Additional Background:** According to Congressional Quarterly, Dennis P. Collins, a World War II veteran who served in the Pacific theatre, was the Mayor of Bayonne, N.J., for 16 years, from 1947 to 1990.

**Committee Action:** H.R. 3307 was introduced on August 1, 2007, and was referred to the Committee on Oversight and Government Reform, which held a mark-up and reported the bill, as amended, by unanimous consent on September 20, 2007.

**Cost to Taxpayers:** A CBO score of H.R. 3307 is unavailable, but the only costs associated with a U.S. post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Constitutional Authority:** Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 9 of the Constitution grants Congress the authority to constitute tribunals inferior to the Supreme Court; and Article I, Section 8, Clause 18, the Necessary and Proper Clause, grants Congress the power to make all laws necessary and proper to carry out the enumerated powers in Article I, Section 8.

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**H.R. 3446 — To designate the facility of the United States Postal Service located at 202 East Michigan Avenue in Marshall, Michigan, as the “Michael W. Schragg Post Office Building” (Walberg, R-MI)**

**Order of Business:** H.R. 3446 is scheduled for consideration on Tuesday, October 30, 2007, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 3446 would designate the facility of the United States Postal Service located at 202 East Michigan Avenue in Marshall, Michigan, as the “Michael W. Schragg Post Office Building.”

**Additional Background:** According to the sponsor’s office, Michael W. Schragg, originally from Battle Creek, Michigan, was “Marshall’s Postmaster for 23 years and was the force behind creating the Marshall Postal Museum, the second largest postal museum in the U.S., second only to the Smithsonian Postal Museum in Washington, D.C.”

**Committee Action:** H.R. 3446 was introduced on August 1, 2007, and was referred to the Committee on Oversight and Government Reform, which held a mark-up and reported the bill, as amended, by unanimous consent on September 20, 2007.

**Cost to Taxpayers:** A CBO score of H.R. 3446 is unavailable, but the only costs associated with a U.S. post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Constitutional Authority:** Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 9 of the Constitution grants Congress the authority to constitute tribunals inferior to the Supreme Court; and Article I, Section 8, Clause 18, the Necessary and Proper Clause, grants Congress the power to make all laws necessary and proper to carry out the enumerated powers in Article I, Section 8.

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